

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

VIRGIL R. SMITH,

Plaintiff,

V.

SIBLEY G. REYNOLDS, *et al.*,

Defendants.

CASE NO. 2:20-CV-965-WKW

## ORDER

On January 6, 2022, the Magistrate Judge filed a Recommendation (Doc. # 7), recommending dismissal of this action prior to service under 28 U.S.C. § 1915(e). The Recommendation expertly explained why subject matter jurisdiction is lacking in this action, and why Eleventh Amendment immunity and judicial immunity contribute to Plaintiff's failure to state a claim under the only possible basis for federal jurisdiction—42 U.S.C. § 1983.

On January 12, 2022, Plaintiff filed an objection to the Recommendation. Plaintiff's one-page objection states: "I understand my case is going to be dismiss[ed]. But it should not be, because this is not what I ask." (Doc. # 8.)

Regardless of whether Plaintiff has asked for dismissal, the court is required to dismiss a case that “fails to state a claim on which relief may be granted or seeks monetary relief against a defendant who is immune from such relief” when *in forma*

*pauperis* status has been granted. 28 U.S.C. § 1915(e). And in every case, regardless of the status of the parties, the court must ensure that it has subject matter jurisdiction. *Univ. of S. Alabama v. Am. Tobacco Co.*, 168 F.3d 405, 410 (11th Cir. 1999). These matters must be addressed by the court, even if the parties have not asked the court to address them. The Magistrate Judge was correct in raising these issues and was correct in recommending dismissal.

Therefore, upon an *de novo* review of the record and upon consideration of the Recommendation, it is ORDERED as follows:

1. Plaintiff's objection (Doc. # 8) is OVERRULED.
2. The Magistrate Judge's Recommendation (Doc. # 18) is ADOPTED.
3. This case is DISMISSED without prejudice.

A final judgment will be entered separately.

DONE this 15th day of March, 2022.

/s/ W. Keith Watkins  
UNITED STATES DISTRICT JUDGE